

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GOLDENTREE ASSET MANAGEMENT LP,

x

Petitioner,

v.

Misc. Action. No. _____

AI MEDIA HOLDINGS (NMT), LLC
AND ACCESS INDUSTRIES, INC.

Respondents.

x

**APPLICATION FOR AN ORDER FOR LEAVE
TO CONDUCT DISCOVERY FOR USE IN PROCEEDING IN
FOREIGN TRIBUNAL PURSUANT TO 28 U.S.C. § 1782**

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1782, and upon the accompanying Proposed Order to Show Cause, Memorandum of Law, Declaration of Per M. Ristvedt, and Declaration of David Zensky, GoldenTree Asset Management LP (“GoldenTree”) hereby applies to this Court for an Order authorizing GoldenTree to obtain discovery from AI Media Holdings (NMT) LLC (“AI Media”) and Access Industries, Inc. (“Access Industries”) for use in a pending foreign proceeding commenced by GoldenTree in Norway in the District Court of Oslo (the “Norwegian Litigation”) against AINMT Holdings AB (“AINMT”), based on the following:

1. The Norwegian Litigation arises out of a Payment-In-Kind loan agreement (the “Loan Agreement”) between Petitioner, acting as Investment Manager/agent on behalf of numerous lenders and AINMT as Borrower. As detailed in its accompany submissions, Goldentree is alleging six breaches of the Loan Agreement, with a corresponding increase in the applicable interest rate for each breach, and seeking to recover unpaid cash interest. AINMT, on behalf of a subsidiary, has asserted a counterclaim for unspecified damages, contending that GoldenTree

improperly impaired certain financing efforts. GoldenTree seeks documents and testimony from the Respondents regarding these disputes for use in the Norwegian Litigation.

2. The trial in the Norwegian Litigation is now set to commence on April 4, 2022, with a March 14, 2022 deadline for the submission of evidence. Consequently, Petitioner has moved by way of Order to Show Cause on notice to Respondents to ensure that a hearing on its motion can be promptly held and discovery obtained before the deadline. In light of the March 14, 2022 deadline, Petitioner requests that Respondents be directed to file opposition papers, if any, within nine days (i.e., by February 4) and Petitioner to file its reply, if any, within five days (i.e., by February 9).

3. While the Norwegian litigation was commenced in October 2020, and trial was originally set for September 2021, the parties were engaged in mediation and settlement talks for much of 2021 and actually reached a settlement in November 2021. However, AINMT was unable to secure financing to consummate the settlement, and as a result it terminated December 31, 2021. With the settlement having terminated and the issues to be tried coming into focus on account of additional pleadings filed in the Norwegian Litigation, GoldenTree thereafter promptly determined to seek discovery from Respondents.

4. Respondents are both headquartered in New York City. Specifically, the New York Department of State, Division of Corporations website shows that Access Industries is a Corporation registered in New York and Access Industries' website (<https://www.accessindustries.com/about/>) provides that it is headquartered in New York. The Delaware Division of Corporation website provides that AI Media is a Delaware Limited Liability Company. Upon information and belief, AI Media's headquarters is also in New York and/or AI Media is properly found here as required by section 1782.

5. Neither Respondent is a party to the Norwegian Litigation. AI Media owns approximately 62% of non-party Ice Group ASA, which in turn owns Defendant AINMT, and Access Industries owns AI Media. As explained in the Declaration of Per A. Ristvedt (the “Ristvedt Decl.”), attached to the Memorandum of Law in Support of Petitioner’s Application, Respondents appear to have had involvement in at least some the transactions at issue in the Norwegian Litigation, and GoldenTree has ample reason to believe that Respondents have documents and information responsive to the subpoenas. *See* Ristvedt Decl. ¶¶ 24-25.

6. As detailed in the accompanying declarations and Memorandum of Law, it is respectfully submitted that Petitioner satisfies all the requirements for an order authorizing discovery under section 1782, and that the subpoenas Goldentree proposes to serve are narrowly tailored to the specific issues to be tried in the Norwegian Litigation.

WHEREFORE, Petitioner respectfully requests that the Court grant the Application and authorize Petitioner to issue subpoenas to AI Media and Access Industries.

Dated: New York, New York
January 25, 2022

Respectfully Submitted,

/s/ David Zensky

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